

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 1623.00
COMPLAINT INVESTIGATOR: Brian Simkins
DATE OF COMPLAINT: September 22, 2000
DATE OF REPORT: October 20, 2000
REQUEST FOR RECONSIDERATION: no
DATE OF CLOSURE: November 22, 2000

COMPLAINT ISSUES:

Whether the Scott County School District 2 and the Madison Area Educational Special Services Unit violated:

511 IAC 7-27-7 with regard to the school's alleged failure to implement the student's individualized education program (IEP), specifically, failing to provide occupational therapy services.

511 IAC 7-27-4(a)(4) with regard to the school's alleged failure to convene the case conference committee when the school proposed to make speech therapy part of the student's IEP.

511 IAC 7-27-5 with regard to the school's alleged failure to obtain parental consent prior to revising the student's IEP when it involved a change of placement (i.e., adding speech therapy).

511 IAC 7-25-5(c) with regard to the school's alleged failure, within 10 business days of the parent's request for an independent evaluation at public expense, to notify the parent in writing that an independent educational evaluation would be at public expense or to initiate a due process hearing to determine the appropriateness of the school's evaluation.

During the course of the investigation, an additional issue was identified:

511 IAC 7-27-6(a)(7) with regard to the school's failure to include in the student's IEP a statement of how the student's progress will be measured and how the student's parent will be regularly informed of his progress.

FINDINGS OF FACT:

1. The Student is eight years old and attends a local elementary school ("the school"). He is eligible for special education and related services as a student with an emotional handicap and a visual impairment.
2. The Student's current IEP indicates that he is to receive occupational therapy as an indirect service on a monthly basis to gauge handwriting skills.
3. According to the school's occupational therapist, there is no documentation indicating whether indirect occupational therapy sessions for the Student were conducted, and no records of progress were kept or sent home to the Student's parent.
4. The Student's current IEP does not contain a statement indicating how the Student's progress toward annual goals, including short term objectives, will be measured. Further, there is no

statement in the IEP indicating how the Student's parent will be regularly informed of the Student's progress toward the annual goals.

5. The Student's current IEP does not indicate that the Student is to receive speech and language services. The complaint letter indicated such services were being provided. According to the school's speech pathologist, the Student was made part of a general education grade level group receiving language development classes to improve grade level appropriate vocabulary and concepts. These classes were something the school's speech pathologist set up with the approval of the third grade teachers to conduct once a week for 25 minutes. There was not a proposal to make speech therapy a part of the Student's IEP, nor was there a change of placement affecting the Student's special education program.
6. On May 24, 2000, at the end of the 1999-2000 school year, the parent verbally made a request for an additional evaluation to assess other areas not previously evaluated. The request, however, was for someone other than the school to conduct the additional evaluation at the school's expense. There was no disagreement with the school's additional evaluation to prompt a request for an independent evaluation because the school had not yet conducted the additional evaluation. On July 12, 2000, the local special education district director called for a school psychologist to do an additional evaluation, but the parent refused to sign permission allowing the school to conduct its evaluation. The school maintains a policy that it will not pay for an independent evaluation until the school conducts its evaluation. The parent obtained an independent evaluation despite this policy.

CONCLUSIONS:

1. Finding of Fact #2 and #3 reflect that there was no documentation to ensure the Student was receiving indirect occupational therapy services as written in the IEP. A violation of 511 IAC 7-27-7 is found.
2. Finding of Fact #5 reflects that speech therapy was not proposed by the school and is not part of the Student's IEP. No violation of 511 IAC 7-27-4(a)(4) is found.
3. Finding of Fact #5 reflects that the Student's IEP was not revised to include speech therapy. There was not a change of placement that required parent consent. No violation of 511 IAC 7-27-5 is found.
4. Finding of Fact #6 reflects that, the parent sought an independent evaluation without allowing the school to conduct the evaluation first. No violation of 511 IAC 7-25-5(c) is found.
5. Finding of Fact #4 reflects that the Student's IEP does not contain a statement of how progress towards achieving the annual goals and short term objectives will be measured. It also reflects that there is no statement describing how Student progress will be reported to the parent on a regular basis. A violation of 511 IAC 7-27-6(a)(7) is found.

The Department of Education, Division of Special Education requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

1. The Scott County School District #2 shall: review and revise, if necessary, their policy on documenting provision of occupational therapy services. A copy of the school's policy shall be sent to the Division no later than November 20, 2000 along with an assurance statement that all occupational therapists and certified occupational therapy assistants have been advised of the policy.

2. Reconvene a case conference committee meeting with the parent to consider the need for compensatory occupational therapy services and to thoroughly review, revise, and update the Student's IEP. School officials shall take whatever action is necessary to ensure the parent understands exactly what services will be provided to the Student, when they will be provided, by whom and how. This shall be included in the revised IEP. In addition, the revised IEP must include a specific statement of how the Student's progress on each annual goal and short term objective will be recorded and reported. There shall also be a statement describing when and how Student progress on each annual goal and short term objective will be regularly reported to the parent. A copy of the revised IEP shall be sent to the Division no later than November 20, 2000, along with copies of case conference committee meeting notes.

DATE REPORT COMPLETED: October 20, 2000